

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
DAYTON DIVISION**

JOHN AND JANE DOE NO. 1, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	Case No. 3:22-cv-00337
	)	
v.	)	Judge Michael J. Newman
	)	
BETHEL LOCAL SCHOOL DISTRICT	)	
BOARD OF EDUCATION, <i>et al.</i> ,	)	
	)	
Defendants.	)	

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**DEFENDANT-INTERVENOR ANNE ROE’S UNOPPOSED MOTION TO WITHDRAW  
AS PARTY**

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Defendant-Intervenor Anne Roe, by her guardian Joanne Roe, respectfully moves to withdraw from this action as a party defendant, on the basis that she will no longer be enrolled in in-person classes at Bethel High School for the 2023-2024 academic year. A brief in support of this motion is attached.

Plaintiffs and Defendants have been advised of this Motion and the basis for it, and do not oppose the requested relief.

Respectfully submitted,

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Roe)*

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BOARD OF EDUCATION, <i>et al.</i> ,	)	
	)	
Defendants.	)	

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**MEMORANDUM IN SUPPORT OF DEFENDANT-INTERVENOR ANNE ROE’S  
UNOPPOSED MOTION TO WITHDRAW AS A PARTY**

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**INTRODUCTION AND BACKGROUND**

Anne Roe moves to withdraw from this action as a defendant-intervenor, on the basis that she will no longer be enrolled in in-person classes at Bethel High School for the 2023-2024 academic year. This change in circumstances effectively extinguishes her interest in this action.

Plaintiffs initiated this action on November 22, 2022 with their Complaint against the Bethel Local School District Board of Education (the “School District”), its five members, and its superintendent. Plaintiffs assert a number of counts citing the Ohio Open Meetings Act, Title IX, fundamental parenting rights, equal protection, free exercise of religion, and the Protection of Pupil Rights Amendment, challenging various alleged policies, practices, and actions of the School District—including its decision to allow transgender students to use school communal restrooms matching their gender identities. Plaintiffs seek injunctive relief, declaratory relief, “[f]urther relief ... including damages[,]” and an award of costs and attorneys’ fees from Defendants. *See* Complaint, ECF No. 1, at Prayer for Relief. None of Plaintiffs’ claims in the Complaint—or in

any other filing since—are directed towards Anne Roe, who was not named as a defendant. On December 2, 2022, Plaintiffs moved for a preliminary injunction. *See* ECF No. 5.

On January 9, 2023, Anne Roe, who was then a ninth-grade student at Bethel High School, moved to intervene as a defendant in this action. Anne is transgender, and maintained a strong interest in being able to use the girls’ communal restrooms at school. Her basis for intervention, as stated more fully in her Motion to Intervene, was to protect her ability to continue using the restroom at Bethel High, an ability that would be directly affected by the outcome of Plaintiffs’ claims. *See* Motion to Intervene, ECF No. 13. Anne took no position on Counts One (Ohio Open Meetings Act) and Six (Protection of Pupil Rights Amendment) of the Complaint, but opposed Plaintiffs’ other claims, and opposed the entry of preliminary injunctive relief.

Plaintiffs did not oppose Anne Roe’s intervention or dispute her basis for doing so, nor did Defendants. *See* Plaintiffs’ Response, ECF No. 28; Defendants’ Response, ECF No. 29. This Court subsequently granted intervention as of right, finding that Anne satisfied the requirements of Federal Rule of Civil Procedure 24(a)(2). Order, ECF No. 30. At the Court’s direction, Anne filed her response to Plaintiffs’ Motion for Preliminary Injunction on January 20, 2023. Anne answered the Complaint on January 27, and on March 27, filed a combined Rule 12(b)(1) motion to dismiss and Rule 12(c) motion for partial judgment on the pleadings. ECF No. 75. Defendants incorporated by reference the entirety of Anne’s motion into their own motion to dismiss and motion for judgment on the pleadings. ECF No. 79 at PAGEID 1652.

For the 2023-2024 academic year, Anne will be enrolled in online classes. At this time, she has no plans to attend in-person classes or activities at Bethel High School.

## **LAW AND ARGUMENT**

An intervenor must continue to meet intervention requirements “throughout the duration of the litigation, as courts must be able to ensure that parties have a live interest in the case.” *Coal. to Defend Affirmative Action, Integration & Immigrant Rts. & Fight for Equal. By Any Means Necessary v. Regents of Univ. of Michigan*, 701 F.3d 466, 490 (6th Cir. 2012), *rev’d on other grounds sub nom. Schuette v. Coal. to Defend Affirmative Action, Integration & Immigrant Rts. & Fight for Equal. By Any Means Necessary (BAMN)*, 572 U.S. 291 (2014). Courts allow intervenors to withdraw freely where they do not maintain such an interest, and so long as it “does not seriously interfere with the actual hearings.” *Morgan v. McDonough*, 726 F.2d 11, 14 (1st Cir. 1984) (internal citation omitted).

Anne Roe satisfied the requirements of intervention in this action by virtue of her full-time in-person attendance at Bethel High School, and the accompanying necessity of her using the school restrooms. As she no longer anticipates attending any in-person classes at Bethel, she no longer maintains an interest in this litigation, and requests that this Court grant her leave to withdraw.

Via counsel, all Plaintiffs and Defendants have been advised of this request, and they do not oppose the requested relief.

Respectfully submitted,

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minor, by and through her legal guardian Joanne  
Roe)*

**CERTIFICATE OF SERVICE**

I, David J. Carey, hereby certify that on this 2nd day of August, 2023, I electronically filed the foregoing with the Clerk of Court for the United States District Court for the Southern District of Ohio via the ECF system, which will send notification of such filing to all counsel of record.

/s/ David J. Carey